

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL STEVEN HOLMES,

Plaintiff,

v.

Case No. 5:03-cv-88
HON. R. ALLAN EDGAR

WILLIAM OVERTON, et. al.,

Defendant.

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ORDER

Plaintiff Michael Steven Holmes, a state prisoner in the custody of the Michigan Department of Corrections, brings this civil rights action under 42 U.S.C. § 1983. Defendants Correctional Medical Services, Inc. And Rocco DeMasi move for summary judgment pursuant to Fed. R. Civ. P. 56. [Doc. No. 109]. The motion was referred to Magistrate Timothy P. Greeley for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b), and W.D. Mich. LCivR 72.1. The Magistrate Judge has submitted his report and recommendation. [Doc. No. 117]. The Magistrate Judge recommends that the defendants' summary judgment motion be denied because there are genuine issues of material fact in dispute.

There are objections to the report and recommendation by the defendants. [Doc. No. 74]. After reviewing the record *de novo*, the Court concludes that the defendants' objections are **DENIED**. The Court **ACCEPTS and ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72(b), and W.D. Mich. LCivR 72.3(b). The defendants' motion for summary judgment [Doc. No. 109] is **DENIED**.

SO ORDERED.

Dated: September 26, 2006.

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE